



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4241

Introduced 1/28/2004, by Angelo Saviano

SYNOPSIS AS INTRODUCED:

New Act

Creates the Displaced Building Service Workers Protection Act. Provides protections to building service employees who are regularly assigned to a covered building on a full or part-time basis for at least 90 days immediately preceding a transition in employment and who perform work in connection with the care or maintenance of an existing building. Provides that a successor building owner, manager, or contractor shall be required to offer employment to the predecessor employer's incumbent building service employees, subject to the existence of cause, for a period of 90 days following the transition at the affected building. Provides that at the end of the 90 day transition period, the successor employer perform written performance evaluations and offer continued employment to all covered building service employees who receive satisfactory ratings. Excludes from coverage employees who earn more than \$25 per hour, work less than 6 hours per week, or serve in a managerial, supervisory, or confidential capacity. Exempts from coverage those successor employers who are already or agree to become bound by the terms of a collective bargaining agreement that includes provisions that address the discharge or lay off of building service employees. Exempts any predecessor employer that obtains a written commitment from a successor employer providing that the successor employer's building service employees will be covered by a collective bargaining agreement that addresses the discharge or layoff of employees. Effective immediately.

LRB093 20358 RXD 46126 b

1 An Act concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Displaced Building Service Workers Protection Act.

6 Section 5. Definitions. In this Act:

7 "Building service" means work performed in connection with
8 the care or maintenance of an existing building and includes,
9 but is not limited to, work performed by a watchman, security
10 officer, door staff, building cleaner, maintenance technician,
11 handyman, janitor, elevator operator, window cleaner, building
12 engineer and groundskeeper.

13 "Building service contract" means a contract let to any
14 covered employer for the furnishing of building services and
15 includes any subcontract for such services.

16 "Building service contractor" means any person who enters
17 into a building service contract.

18 "Building service employee" means any person employed as a
19 building service employee by a covered employer who has been
20 regularly assigned to a building on a full or part-time basis
21 for at least 90 days immediately preceding any transition in
22 employment subject to this section except for (i) persons who
23 are managerial, supervisory, or confidential employees,
24 provided that this exemption shall not apply to building
25 engineers for existing properties, (ii) persons earning in
26 excess of \$25 per hour from a covered employer, and (iii)
27 persons regularly scheduled to work fewer than 6 hours per week
28 at a building.

29 "State of Illinois" means any city, township,
30 administration, department, division, bureau, board or
31 commission, or a corporation, institution, or agency of
32 government, the expenses of which are paid in whole or in part

1 from the State treasury.

2 "Covered employer" means any person who owns or manages
3 real property, either on its own behalf or for another person,
4 or any person who contracts or subcontracts with an owner or
5 manager of real property within the State of Illinois for real
6 estate, including, but not limited to, housing cooperatives,
7 condominium associations, building managing agents, and any
8 building service contractor provided, however, that the
9 requirements of this Act shall not apply to (i) residential
10 buildings under 50 units, (ii) commercial office,
11 institutional, or retail buildings of less than 75,000 square
12 feet, or (iii) any building in which the State of Illinois or
13 any governmental entity, the head or majority of members of
14 which are appointed by one or more officers of the State of
15 Illinois, occupies 50% or more of the rentable square footage.

16 "Person" means any individual, proprietorship,
17 partnership, joint venture, corporation, limited liability
18 company, trust, association, or other entity that may employ
19 persons or enter into service contracts, but shall not include
20 the City of Chicago, the State of Illinois, and the federal
21 government or any other entity, or any individual or entity
22 managing real property for a governmental entity.

23 "Successor employer" means a covered employer that (i) has
24 been awarded a building service contract to provide, in whole
25 or in part, building services that are substantially similar to
26 those provided under a service contract that has recently been
27 terminated, or (ii) has purchased or acquired control of
28 property in which building service employees were employed.

29 Section 10. Protection for building service employees.

30 (a) No less than 15 calendar days before terminating any
31 building service contract, any covered employer shall request
32 the terminated contractor to provide the successor employer and
33 any collective bargaining representative of any of the affected
34 employees a full and accurate list containing the name,
35 address, date of hire, and employment occupation

1 classification of each building service employee employed on
2 the notice date at the site or sites covered by the terminated
3 contract.

4 (b) No less than 15 calendar days before transferring a
5 controlling interest in any covered building in which building
6 service employees are employed, any covered employer shall
7 provide to the successor employer and any collective bargaining
8 representative of any of the affected employees a full and
9 accurate list containing the name, address, date of hire, and
10 employment occupation classification of each building service
11 employee currently employed at the site or sites covered by the
12 transfer of controlling interest.

13 (c) Any covered employer shall provide to the successor
14 employer and any collective bargaining representative of any of
15 the affected employees a full and accurate list containing the
16 name, address, date of hire, and employment occupation
17 classification of each building service employee currently
18 employed at the site or sites covered by the terminated
19 building service contract no more than 7 calendar days after
20 notice that its building service contract has been terminated.

21 (d) When providing the notice required under this Section,
22 each covered employer shall ensure that a notice to building
23 service employees is posted setting forth the rights provided
24 under this Section and which includes a copy of the list
25 provided under the preceding Sections, and that such notice is
26 also provided to the employees' collective bargaining
27 representative, if any. The notice and list shall be posted in
28 the same location and manner that other statutorily required
29 notices to employees are posted at the affected site or sites.

30 (e) A successor employer shall retain for a 90-day
31 transition employment period at the affected site or sites
32 those building service employees of the terminated building
33 service contractor and its subcontractors, or other covered
34 employer, employed at the site or sites covered by the
35 terminated building service contract or owned or operated by
36 the former covered employer.

1 (f) If at any time the successor employer determines that
2 fewer building service employees are required to perform
3 building services at the affected building than had been
4 performing such services under the former employer, the
5 successor employer shall retain the predecessor building
6 service employees by seniority within job classification;
7 provided that during such a 90-day transition period, the
8 successor employer shall maintain a preferential hiring list of
9 those building service employees not retained at the building
10 who shall be given a right of first refusal to any jobs within
11 their classification that becomes available during that
12 period.

13 (g) Except as provided in subsection (f), during such
14 90-day period, the successor contractor shall not discharge
15 without cause an employee retained pursuant to this Section.

16 (h) At the end of the 90-day transition period, the
17 successor employer shall perform a written performance
18 evaluation for each employee retained pursuant to this Section.
19 If the employee's performance during such 90-day period is
20 satisfactory, the successor contractor shall offer the
21 employee continued employment under the terms and conditions
22 established by the successor employer or as required by law.

23 Section 15. Violation.

24 (a) A building service employee who has been discharged or
25 not retained in violation of this Act may bring an action in
26 court against a successor contractor and covered employer for
27 violation of any obligation imposed pursuant to this Act.

28 (b) The court shall have the authority to order injunctive
29 relief to prevent or remedy a violation of any obligation
30 imposed pursuant to this Act.

31 (c) If the court finds that by reason of a violation of any
32 obligation imposed pursuant to subsection (b), a building
33 service employee has been discharged in violation of this
34 Section, it shall award:

35 (1) Back pay for each day during which the violation

1 continues, which shall be calculated at a rate of
2 compensation not less than the higher of (i) the average
3 regular rate of pay received by the employee during the
4 last 3 years of the employee's employment in the same
5 occupation classification; or (ii) the final regular rate
6 received by the employee.

7 (2) Costs of benefits the successor employer would have
8 incurred for the employee under the successor contractor's
9 or employer's benefit plans.

10 (3) The building service employee's reasonable
11 attorney's fees and costs.

12 (d) In any such action, the court shall have the authority
13 to order the terminated contractor or former employer to
14 provide the successor employer with the information required
15 pursuant to Section 10(c) of this Act.

16 Section 20. Exemptions. The provisions of this Act do not
17 apply:

18 (1) To any successor employer that, on or before, the
19 effective date of the transfer of control from a
20 predecessor covered employer to the successor employer to
21 the commencement of services by a successor building
22 service contractor, agrees to assume, or to be bound by,
23 the collective bargaining agreement of the predecessor
24 covered building service employees, provided that the
25 collective bargaining agreement provides terms and
26 conditions for the discharge or laying off of employees.

27 (2) Where there is no existing collective bargaining
28 agreement as described in subdivision (1), to any successor
29 employer that agrees, on or before the effective date of
30 the transfer of control from a predecessor covered employer
31 to the successor employer or the commencement of services
32 by a successor building service contractor, to enter into a
33 new collective bargaining agreement covering its building
34 service employees, provided that the collective bargaining
35 agreement provides terms and conditions for the discharged

1 or laying off of employees.

2 (3) To any successor employer whose building service
3 employees will be accredited to a bargaining unit with a
4 pre-existing collective bargaining agreement, provided
5 that the collective bargaining agreement provides terms
6 and conditions for the discharged or laying off of
7 employees.

8 (4) To any covered employer that obtains a written
9 commitment from a successor employer that the successor
10 employer's building service employees will be covered by a
11 collective bargaining agreement falling within subdivision
12 (1), (2), or (3).

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.